

IN THE SUPREME COURT OF BRITISH COLUMBIA

Date: 20210913
Docket: S210831
Registry: Vancouver

Between:

Canadian Society for the Advancement of Science in Public Policy

Plaintiff

And:

**Her Majesty the Queen in Right of the Province of British Columbia and
Dr. Bonnie Henry in her Capacity as Provincial Health Officer for the Province
of British Columbia**

Defendants

Before: Registrar Nielsen

Oral Ruling on Short Leave Application

In Chambers

(Hearing proceeded via teleconference)

Counsel for the Plaintiff:

P.H. Furtula

Counsel for the Defendants:

J.D. Hughes, Q.C.
E.C. Lapper

Place and Date of Hearing:

Vancouver, B.C.
September 13, 2021

Place and Date of Decision:

Vancouver, B.C.
September 13, 2021

[1] **THE COURT:** This is an application under *Supreme Court Civil Rules*, B.C. Reg. 168/2009, Rule 8-5(1) for short notice in order to bring a challenge to the Province's health orders issued September 10, 2021, which restricts certain members, a Society, from fully participating in a number of services if they cannot prove that they have been vaccinated.

[2] By way of background, there are escalating cases in the interior, north and Fraser Health. The health orders were brought in in order to protect the public. The application for short leave is opposed. It is opposed essentially on the basis that what we are talking about here are non-essential discretionary services.

[3] They are not essential services. Those essential services are still open for people that are not vaccinated to fully participate in, and even on the more mundane ones of access to restaurants, you can still go to a food court or obtain food. People are not facing issues of not being able to do that.

[4] There is a question of standing on whether or not *Charter* rights could be alleged infringed by the plaintiff. My inclination is that this is probably something that the Court might look at nevertheless, given recent developments in the law in that regard.

[5] However, it is my view that this does not meet the test of urgency, primarily for the reasons given by Ms. Hughes, and I would emphasize that what we are talking about here are non-essential services. Therefore, the short leave is refused.

“Registrar Nielsen”